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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 10/720,757 | 11/25/2003 | Ian Norquay | 85209-102 RWD | 2769 |
| 23529 | 7590 | 12/16/2005 | EXAMINER | |
| ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA | | | BOEHLER, ANNE MARIE M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3611 | |

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------------|--------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/720,757 | NORQUAY, IAN | |
| | Examiner | Art Unit | |
| | Anne Marie M. Boehler | 3611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/5/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 9 and 14-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 26, 2005.
2. Claim 3 is objected to because of the following informalities: Applicant refers to the "diameter" of the tubular member, however, the tubing described in the specification is square, not round. Therefore, its dimension would not be a "diameter". Appropriate correction is required.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 4, 10-12 are rejected under 35 U.S.C. 102(a and e) as being anticipated by Parrish (PGPub 2002/0017770).

Parrish shows a support device that can be mounted to a wall or a floor surface and has a support receiver 22 configured to receive a hitch-mountable rack or support. Figure 10a shows one embodiment where the receiver 22 is pivotable relative to its planar mounting frame 20. The receiver has apertures 22a, 22b through which a pin 32 is inserted to lock a hitch mounting member 18 in the receiver. The frame includes at least three holes 86a-f for receiving pins 90a-f to secure the frame to a surface.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parrish in view of Hosford.

Parrish shows all of the claimed features except a stop member and cooperating apertures for locking the support receiver in respective positions.

Hosford shows a hitch receiver 12 that is pivotally mounted to a support frame 10. A stop member 40 is selectively receivable in apertures 26, 30, 34 in the receiver and frame for selectively maintaining the receiver in respective positions.

Art Unit: 3611

It would have been obvious to one of ordinary skill in the art to provide the Parrish device with a stop member and apertures for locking the receiver in respective positions, as taught by Hosford, in order to prevent unintended pivoting of the receiver.

7. Claims 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parrish.

Parrish teaches the use of a receiver sized for standard hitch members. In paragraph 0004, Parrish suggest the receiver can have a 1.25" opening, but it is silent regarding the external dimension. However, it would have been obvious to one of ordinary skill in the art to configure the outer dimension to be 1.5", for a 1.25" inner dimension in order to use a standard .125 thick material for the tubing.

8. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parrish in view of Botkin (USPN 5,492,228)

Parrish teaches all of the claimed features except for the T-shaped frame.

Botkin shows a floor-mounted stand or rack including a frame having a main support member 16, a cross member 30 and multiple receivers 40 (one closer to the cross member than the other). The cross member is removable from the main support member.

It would have been obvious to one of ordinary skill in the art to configure the Parrish frame with multiple disassemble parts, as taught by Botkin, in order to increase the strength and versatility of the device.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Olsen shows a support device having multiple frame members and a pivotable receiver.

DeGuerava and Lebee each show an article support rack.

Skaggs shows a T-shaped frame with a hitch receiver 20.

Henry shows a support for a hitch.

Davy shows a T-shaped frame.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/11/05

Anne Marie M. Boehler
Primary Examiner
Art Unit 3611